

## **EXHIBIT D-3**

12:16:20 1	It.	12:19:00 1	some correlation, yes. But I think what you're
12:16:21 2	Q. And -- but you don't have any data on that	12:19:05 2	looking at is probably the bigger factor. If
12:16:23 3	point?	12:19:08 3	it's -- I'll call it a mundane sign that's really of
12:16:23 4	A. No.	12:19:12 4	not much interest to most people, they're not going
12:16:25 5	Q. Correct? No, you don't?	12:19:14 5	to be studying that sign very much.
12:16:26 6	A. No, I do not have data on that point.	12:19:16 6	But on the other hand, if it's something of
12:16:30 7	Q. And you're not aware of any?	12:19:20 7	high interest, you know, visually somehow, then
12:16:33 8	A. No.	12:19:24 8	you're going to spend more time and probably
12:16:41 9	Q. Do bus shelters help drivers know when a	12:19:24 9	increase the chances of an accident.
12:16:44 10	bus is going to stop?	12:19:25 10	Q. But -- and you don't know how long people
12:16:48 11	MR. MOBLEY: Objection. Calls for	12:19:26 11	tend to spend looking at signs?
12:16:50 12	speculation.	12:19:28 12	A. No.
12:16:50 13	THE WITNESS: I would -- I would say no.	12:19:33 13	Q. But it's generally considered more unsafe
12:16:55 14	If you're right behind a bus, you probably don't see	12:19:35 14	to drive while you're looking to the side of the
12:16:58 15	the bus shelter until the bus stops. If you're ten	12:19:37 15	road than looking straight ahead, correct?
12:17:01 16	cars back, I don't think it makes any difference.	12:19:40 16	MR. MOBLEY: Objection. Incomplete
12:17:04 17	So I'm not sure is it a benefit or -- of a	12:19:42 17	hypothetical.
12:17:07 18	bus shelter warning a driver, look, a bus is going	12:19:42 18	THE WITNESS: I think -- on a general --
12:17:10 19	to stop here? I'm not sure there's -- makes much	12:19:44 19	everything else being equal, sure.
12:17:12 20	difference.	12:19:44 20	BY MS. BRILL:
12:17:12 21	BY MS. BRILL:	12:20:06 21	Q. And you didn't analyze as to any Metro
12:17:13 22	Q. Are you not sure one way or another?	12:20:08 22	Lights sign whether it's necessary to turn your head
12:17:15 23	A. No, I'm not sure. Some cases it's	12:20:10 23	to see the sign at a point where it would be
12:17:17 24	obviously going to help some, but I would think most	12:20:16 24	legible, correct?
12:17:20 25	of the time it's -- you know, probably the blinker	12:20:16 25	A. The ones I saw in general could be -- I
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12:17:23 1	on the bus or something like that or the brake light	12:20:20 1	believe could be viewed or could be read in a -- in
12:17:25 2	and he's slowing down when traffic is moving is	12:20:24 2	a 15-degree cone. So from that point of view, they
12:17:27 3	probably a whole lot more of an indicator to a	12:20:28 3	could be viewed.
12:17:32 4	driver that the bus is going to stop than if there's	12:20:29 4	Now, you could also read them if you turned
12:17:34 5	a bus shelter sitting there.	12:20:31 5	your head, you know. The letters would be bigger.
12:17:36 6	Q. But it could help some drivers in some	12:20:34 6	The message would be bigger if you turned your head
12:17:38 7	situation?	12:20:38 7	Q. So did you -- turning back -- let's turn
12:17:38 8	MR. MOBLEY: Objection. Calls for	12:20:41 8	back to the Exhibit 14, your Metro Lights report.
12:17:42 9	speculation.	12:20:47 9	A. Okay.
12:17:42 10	THE WITNESS: I believe it would help	12:20:51 10	Q. And if you could turn to table 2.
12:17:44 11	sometimes.	12:20:54 11	A. Okay.
12:17:58 12	BY MS. BRILL:	12:20:58 12	Q. You say -- you have a conclusion section at
12:17:58 13	Q. Can you turn back to your Worldwide Rush	12:20:59 13	the bottom where you say:
12:18:01 14	report that we were looking at, Exhibit 9, to this	12:21:03 14	"For the average outdoor
12:18:11 15	one.	12:21:04 15	media sign it is within the
12:18:11 16	A. Sorry.	12:21:06 16	15-degrees of drivers'
12:18:22 17	Q. You refer at page 2 of that report, at this	12:21:09 17	straight-ahead line of sight at 140
12:18:32 18	point you've mentioned several times about the	12:21:11 18	or more feet back from the sign."
12:18:34 19	rubbernecking driver who looks off to the side of	12:21:17 19	Do you see that? Toward the middle.
12:18:37 20	the road as a factor causing accidents.	12:21:18 20	A. Okay.
12:18:37 21	A. Yes.	12:21:18 21	"The average outdoor media
12:18:48 22	Q. And do you agree that turning your head to	12:21:19 22	sign it is within 15 degrees of
12:18:51 23	the side of the road for extended periods correlates	12:21:21 23	drivers' straight-ahead line of
12:18:53 24	with traffic accidents?	12:21:22 24	sight at 140 or more feet back from
12:18:54 25	A. Well, it -- it's logical that it -- there's	12:21:25 25	the sign."
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12:21:25 1 Yes, I do see that.  
 12:21:27 2 Q. Did you deter -- did you determine whether  
 12:21:30 3 the outdoor media signs that you were looking at  
 12:21:32 4 were legible at 140 feet or more back from the sign?  
 12:21:37 5 A. As I recall, they were. I -- I -- you  
 12:21:41 6 know, what I can read, of course, may be different  
 12:21:43 7 from someone else, but it appeared that way. I  
 12:21:46 8 didn't do a scientific evaluation of how large the  
 12:21:50 9 smallest letter was, and some of this stuff, because  
 12:21:54 10 sometimes there's words or something that may not be  
 12:21:56 11 really part of the message.  
 12:21:57 12 So I did not attempt to determine if it was  
 12:22:02 13 legible, you know, by all people at a certain point  
 12:22:07 14 in time. I didn't do that, no.  
 12:22:09 15 Q. What do you mean by "a scientific  
 12:22:11 16 evaluation of how large the smallest letter was"?  
 12:22:14 17 Is there -- is there some methodology that's  
 12:22:16 18 standard practice in determining legibility of  
 12:22:19 19 signs?  
 12:22:20 20 A. There -- well, I'm not sure about the  
 12:22:22 21 outdoor media industry, but as far as traffic signs,  
 12:22:25 22 directional signs, yes. There's a -- the height of  
 12:22:29 23 the letter is a function of how far back you want  
 12:22:32 24 to -- to have the sign seen. So larger letters, of  
 12:22:37 25 course, can be seen further back.

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12:22:38 1 So a freeway sign, for instance, you know,  
 12:22:41 2 a big sign that tells you where the next off-ramp  
 12:22:44 3 is, those letters are pretty big compared to say a  
 12:22:46 4 sign on -- just saying -- a rural road saying just  
 12:22:50 5 turn this way to go -- turn to the right to go to,  
 12:22:53 6 you know, city A, B, C. There's a difference in  
 12:22:57 7 size, and clearly that's why there's a difference in  
 12:22:59 8 size.  
 12:22:59 9 So there is a standard.  
 12:23:01 10 Q. And what -- what is that standard?  
 12:23:03 11 A. You know, I don't recall exactly how it  
 12:23:05 12 works. But it's -- it's -- inches is a -- feet --  
 12:23:09 13 there -- there's a table or a concept where you look  
 12:23:11 14 at how many feet back do you want the sign to be  
 12:23:14 15 seen, which is a function of your 15-degree cone,  
 12:23:17 16 and then how large the letters have to be.  
 12:23:19 17 And there's a concept of speed. So you --  
 12:23:23 18 you want to be able to have the driver see the sign  
 12:23:28 19 early enough to -- to -- to -- to recognize, oh,  
 12:23:32 20 that's where I want to turn or -- you know, so --  
 12:23:35 21 there's -- it's a function of speed and -- speed and  
 12:23:40 22 distance from the road.  
 12:23:41 23 And -- but it's -- it's a simple table. It  
 12:23:45 24 just says 60 miles per hour, X inches is how big the  
 12:23:49 25 letters need to be, basically.

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12:23:50 1 Q. And you didn't perform -- you didn't refer  
 12:23:52 2 to that table or perform that analysis in preparing  
 12:23:54 3 your 2004 report?  
 12:23:57 4 A. No. And -- and you got to realize that the  
 12:24:01 5 signs -- I mean, there's different styles of letters  
 12:24:04 6 and there's different stroke weights, stroke widths,  
 12:24:11 7 capitals versus smalls. All those things get into  
 12:24:14 8 the equation.  
 12:24:15 9 The -- the highway signs are for the  
 12:24:16 10 typical highway lettering, you know, style, and it  
 12:24:21 11 would change if you -- if you had a -- oh, a script  
 12:24:24 12 letter or something like that, you know, something  
 12:24:26 13 little harder to read. So it would change. And I  
 12:24:29 14 don't think you can -- well, I didn't do it.  
 12:24:32 15 Q. Did you make any records to show that  
 12:24:35 16 you -- that each of the signs was -- was or was not  
 12:24:40 17 legible at 140 feet?  
 12:24:42 18 A. I -- I did not for -- I took the  
 12:24:45 19 photographs with the idea that, you know, there it  
 12:24:48 20 is documented, what I looked at. And in my view  
 12:24:52 21 they could be seen pretty well at 140 feet.  
 12:24:58 22 Q. Were the -- were the photographs taken at  
 12:24:58 23 140 feet?  
 12:25:00 24 A. No. Not exactly.  
 12:25:00 25 Q. Closer?

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12:25:01 1 A. They were just taken. No. They were -- I  
 12:25:03 2 basically tried to get -- line them up and take  
 12:25:06 3 them. I didn't pace off 140 feet and say, okay,  
 12:25:09 4 here I am. I did not do that.  
 12:25:11 5 Q. Do you recall approximately where you were  
 12:25:12 6 in relation to when you took the pictures?  
 12:25:14 7 A. No, I -- I -- no. I mean, I -- I could  
 12:25:17 8 recreate the photos. It's pretty easy to walk out  
 12:25:20 9 there and using parallel -- parallax, I guess they  
 12:25:24 10 call it, which is where one -- one object is in  
 12:25:27 11 relation to another, you can -- I can usually get  
 12:25:29 12 within a five-foot circle where I took a photograph  
 12:25:32 13 just by using parallax within the photo that you're  
 12:25:37 14 looking at. So I could recreate them, but I haven't  
 12:25:39 15 done it.  
 12:25:40 16 MS. BRILL: We're about to run out of  
 12:25:42 17 videotape. Let's go off the record.  
 12:25:43 18 THE VIDEOGRAPHER: This marks the end of  
 12:25:46 19 Videotape Number 1 in the deposition of William  
 12:25:47 20 Kunzman. The time on the video monitor is 12:26.  
 12:39:07 21 (At 12:26 p.m., the deposition  
 22 of WILLIAM KUNZMAN was adjourned  
 23 for noon recess.)  
 24 ///  
 25 ///

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1	(At 1:29 p.m. the deposition	13:31:02 1	if somebody wants to see if the Dodgers won or
2	of WILLIAM KUNZMAN was reconvened.)	13:31:04 2	whatever, so I think maybe that would be -- the
13:28:57 3		13:31:07 3	predictability in that sense would be an issue.
13:28:57 4	THE VIDEOGRAPHER: We're back for the	13:31:22 4	Q. And what do you mean when you refer to the
13:29:04 5	afternoon. This marks the beginning of videotape	13:31:24 5	complexity of a message in your list?
13:29:07 6	number 2 in the deposition of William Kunzman. Time	13:31:26 6	A. I'm thinking of -- I'll call it bits, bits
13:29:11 7	on the video monitor is 1:29.	13:31:30 7	of information.
13:29:11 8		13:31:31 8	Some signs, let's say they have a phone
13:29:11 9	EXAMINATION (CONTINUED)	13:31:36 9	number and they have an address and they have a --
13:29:11 10	BY MS. BRILL:	13:31:38 10	you know, several bits of information, three or four
13:29:16 11	Q. Hi, sir.	13:31:41 11	pictures, something like that, versus, say, a very
13:29:17 12	Could you turn, please, to your 2007 report	13:31:46 12	simple sign with just, say, one simple picture and,
13:29:22 13	that we were discussing, and turn to page 6.	13:31:49 13	say, a very simple message. That's what I'm
13:29:28 14	You -- you refer there to -- you say:	13:31:52 14	thinking of there.
13:29:32 15	"From a traffic engineering	13:31:54 15	Q. Okay. And what about confusing messages?
13:29:33 16	and highway safety point of view,	13:31:55 16	A. Well, yeah, I suppose if it's confusing it
13:29:36 17	signs can be classified by the	13:32:00 17	wouldn't help, on the one hand. But on the other
13:29:39 18	following characteristics."	13:32:02 18	hand, I'm -- I'm thinking that if it's confusing,
13:29:40 19	And then you list, among others, relative	13:32:06 19	most people are going to, "I don't know what that
13:29:44 20	size in the driver's eye, location relative to	13:32:08 20	meant." Just not even worry about it. I don't
13:29:48 21	the -- to the roadway, and the complexity of the	13:32:10 21	think anybody's going to spend much time trying to
13:29:50 22	message.	13:32:13 22	decipher the hidden meaning or something. And most
13:29:51 23	Do you see that?	13:32:16 23	signs are pretty well-written. Been tested.
13:29:51 24	A. Yes.	13:32:19 24	Q. Is one of the functions of a small scale
13:29:52 25	MR. MOBLEY: Actually there's a fourth	13:32:23 25	sign on a business typically to identify the
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13:29:54 1	item.	13:32:25 1	business to passers-by?
13:29:54 2	MS. BRILL: Right. I'm going to get to	13:32:26 2	MR. MOBLEY: Objection. Incomplete
13:29:56 3	that.	13:32:29 3	hypothetical. And vague and ambiguous.
13:29:56 4	Q. Where did that list come from?	13:32:34 4	THE WITNESS: I -- I would -- I -- I think
13:29:57 5	A. I -- I wrote that. I mean, I -- I'm the	13:32:35 5	it depends on a lot of other factors. I really do.
13:29:59 6	author of that.	13:32:35 6	BY MS. BRILL:
13:30:01 7	Q. Okay. And did -- are there any other	13:32:39 7	Q. Are small-scale signs often used on
13:30:03 8	factors that are omitted from this list?	13:32:41 8	businesses to identify the business to passers-by?
13:30:09 9	A. Well, under "complexity of message" I	13:32:44 9	A. Well, if you're thinking of a sign
13:30:12 10	suppose you could also include type of message.	13:32:46 10	literally on the business, certainly, yeah.
13:30:13 11	Q. Meaning?	13:32:48 11	Q. And do you have an opinion about whether
13:30:15 12	A. Oh, the -- some -- some messages are maybe	13:32:51 12	drivers in Los Angeles expect that businesses will
13:30:18 13	a little more salacious than others.	13:32:53 13	generally have relatively small-scale signs located
13:30:26 14	Q. Okay. Any other factors?	13:32:56 14	on them that say what the business is?
13:30:31 15	A. No. That come to mind, no.	13:32:58 15	MR. MOBLEY: Objection. Vague and
13:30:35 16	Q. And what about whether a sign -- whether	13:33:00 16	ambiguous as to "relatively small-scale."
13:30:37 17	something is predictable or unpredictable? Would	13:33:04 17	THE WITNESS: Yes. And there's -- you
13:30:39 18	that generally contribute to safety?	13:33:05 18	know, there's the -- maybe current sign ordinances
13:30:43 19	MR. MOBLEY: Objection. Vague and	13:33:08 19	would allow -- would allow, say, relatively small
13:30:45 20	ambiguous.	13:33:10 20	sign, but historically, you know, backing up 20 or
13:30:45 21	THE WITNESS: Well, you know, yes, and I --	13:33:13 21	30 years, there are some businesses that have some
13:30:47 22	and I'm thinking specifically of, say, a changeable	13:33:16 22	huge signs out in front.
13:30:51 23	message sign, and let's say, it's -- it's flashing	13:33:19 23	I -- I don't -- I don't think you can say
13:30:55 24	ball scores, just as an example, baseball scores or	13:33:22 24	that a small business is going to have a small-scale
13:30:59 25	something like that. I think that is unpredictable	13:33:25 25	sign. I don't think that -- that applies. It may
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13:33:28 1 today, but if you were to drive down the street, I  
 13:33:31 2 think you're going to see some big signs. If you  
 13:33:34 3 think of Hollywood Boulevard or some of those kind  
 13:33:37 4 of places, there's big signs.  
 13:33:38 5 Q. And if you see -- my question was  
 13:33:42 6 whether -- when -- if a driver in L.A. sees a  
 13:33:45 7 small-scale sign on a business, directly on the  
 13:33:48 8 business, does that driver typically think that the  
 13:33:51 9 sign is going to be associated with or say something  
 13:33:54 10 about that business?  
 13:33:56 11 MR. MOBLEY: Objection. Calls for  
 13:33:59 12 speculation.  
 13:33:59 13 THE WITNESS: If -- yeah, if it's clearly  
 13:34:02 14 a -- an advertiser, a name on a building or  
 13:34:05 15 something, that -- then they expect that. But there  
 13:34:07 16 are signs which, of course, are on a building that  
 13:34:10 17 have nothing to do with the business in that  
 13:34:12 18 building.  
 13:34:12 19 BY MS. BRILL:  
 13:34:13 20 Q. And drivers know to look for signs if  
 13:34:15 21 they're trying to locate a business, signs on the  
 13:34:18 22 business itself?  
 13:34:18 23 A. Yes. That's true.  
 13:34:21 24 Q. Okay. And they can be confused if they  
 13:34:23 25 expect to see a sign that's identifying a business,

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13:34:26 1 but that's actually identifying something else?  
 13:34:31 2 MR. MOBLEY: Objection. Calls for  
 13:34:35 3 speculation.  
 13:34:35 4 THE WITNESS: The -- well, they can be  
 13:34:35 5 confused. Anybody can be confused on any issue, but  
 13:34:38 6 I think the -- the -- the bigger signs I've seen  
 13:34:41 7 that don't apply to that particular business, I  
 13:34:43 8 think are pretty clear they're advertising something  
 13:34:45 9 else.  
 13:34:45 10 BY MS. BRILL:  
 13:34:46 11 Q. I'm talking about small signs, small signs  
 13:34:48 12 directly on a business.  
 13:34:51 13 MR. MOBLEY: And what's the question?  
 13:34:51 14 BY MS. BRILL:  
 13:34:52 15 Q. So a small sign directly on a business,  
 13:34:54 16 could that be confusing to a passerby trying to  
 13:34:58 17 locate a business -- a particular business?  
 13:35:00 18 MR. MOBLEY: And again, objection. Calls  
 13:35:02 19 for speculation. And incomplete hypothetical.  
 13:35:05 20 THE WITNESS: I -- I just have to say it  
 13:35:06 21 depends. You know, I -- there's no clear definitive  
 13:35:10 22 answer.  
 13:35:10 23 BY MS. BRILL:  
 13:35:11 24 Q. And it might take them longer to find the  
 13:35:14 25 business if there's a sign related to something else

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13:35:16 1 on that business?  
 13:35:17 2 MR. MOBLEY: Again, objection. Calls for  
 13:35:19 3 speculation.  
 13:35:19 4 THE WITNESS: The -- the signs that I'm  
 13:35:24 5 thinking of, the large -- well, even small signs --  
 13:35:27 6 well, generally small signs that are not related to  
 13:35:29 7 the business aren't on the building. But if they  
 13:35:33 8 were, I think that it's pretty clear they're not --  
 13:35:36 9 they're -- what they're advertising, advertising --  
 13:35:40 10 if they're advertising cigarettes, for instance,  
 13:35:42 11 it's clear they're not made in that building. I  
 13:35:45 12 think those are self-apparent, generally, I would  
 13:35:47 13 think.  
 13:35:52 14 Q. In your experience with traffic safety, do  
 13:35:54 15 drivers typically slow down when they're trying to  
 13:35:57 16 locate a business on the side of the road as they  
 13:36:00 17 try to find where the business is?  
 13:36:01 18 MR. MOBLEY: Objection. Incomplete  
 13:36:03 19 hypothetical.  
 13:36:03 20 THE WITNESS: I -- some drivers do.  
 13:36:10 21 Probably most people have been there before, know  
 13:36:12 22 where it is. So to say generally they slow down, I  
 13:36:16 23 don't think it's probably accurate.  
 13:36:16 24 BY MS. BRILL:  
 13:36:18 25 Q. And if a driver is trying to find a

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13:36:19 1 location where he or she has never been, do they  
 13:36:22 2 often slow down a bit as they're looking for a sign  
 13:36:24 3 on the -- on the business to locate that -- to  
 13:36:27 4 locate that place?  
 13:36:29 5 MR. MOBLEY: Objection. Calls for  
 13:36:30 6 speculation. And incomplete hypothetical.  
 13:36:32 7 THE WITNESS: Sometimes they would, yes.  
 13:36:34 8 BY MS. BRILL:  
 13:36:35 9 Q. And if they see a small-scale sign on the  
 13:36:38 10 business that would typically be associated with a  
 13:36:41 11 business location sign, might that cause them to  
 13:36:44 12 slow down further?  
 13:36:45 13 MR. MOBLEY: Same objections and also vague  
 13:36:47 14 and ambiguous.  
 13:36:47 15 THE WITNESS: I'm not sure about the  
 13:36:49 16 further. Sometimes they slow down to find a  
 13:36:53 17 business. I think I'd stop at that point.  
 13:36:56 18 BY MS. BRILL:  
 13:36:56 19 Q. And if the business has a sign unrelated to  
 13:36:59 20 the activity of the business, but that was the same  
 13:37:01 21 size as a typical on-site sign, could that be  
 13:37:05 22 confusing?  
 13:37:06 23 MR. MOBLEY: Objection. Speculation and  
 13:37:08 24 incomplete hypothetical.  
 13:37:09 25 THE WITNESS: It could be. I think

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13:37:14 1	generally there's -- it's not.	13:39:46 1	the driver's eye?
13:37:14 2	BY MS. BRILL:	13:39:47 2	A. I -- It's -- it's not a question of
13:37:15 3	Q. And that could have an impact on traffic,	13:39:49 3	collecting data. It's a question of -- of making
13:37:16 4	correct?	13:39:52 4	some assumptions, you know, 15-degree cone, and
13:37:19 5	MR. MOBLEY: Same objections.	13:39:56 5	doing a mathematical calculation that -- that --
13:37:19 6	THE WITNESS: It could. But it's not a	13:39:59 6	that would show the size on the retina.
13:37:23 7	foregone conclusion.	13:40:14 7	MS. BRILL: Okay. Let's take a look at one
13:37:23 8	BY MS. BRILL:	13:40:18 8	example. Mark that as Exhibit 15, please.
13:37:25 9	Q. Is there any data on that?	13:40:22 9	(The document referred to was
13:37:26 10	A. No. Just you asked my opinion.	10	marked for identification by the
13:37:29 11	Q. And your -- and what's your opinion based	11	C.S.R. as Exhibit 15 and attached
13:37:34 12	on?	12	to this deposition.)
13:37:36 13	A. Based on my being in this business for, you	13	THE REPORTER: You want the sticker down
13:37:39 14	know, 40 years and, you know, observing a lot of	14	here?
13:37:44 15	people, a lot of drivers doing a lot of things. So	13:40:45 15	MR. MOBLEY: That's fine.
13:37:47 16	that's -- it's based on -- It's called engineering	13:40:45 16	MS. BRILL: Exhibit 15 is a photograph of a
13:37:51 17	experience, professional experience.	13:40:47 17	street scape.
13:37:53 18	Q. But a typical billboard that's a larger	13:40:48 18	Q. Is that Sunset Boulevard?
13:38:03 19	scale sign, drivers typically would know that that	13:40:49 19	A. Yes, I believe it is.
13:38:05 20	doesn't identify -- necessarily identify the	13:40:55 20	Q. Yeah. And this is from the CD that -- that
13:38:09 21	business where that sign is, correct?	13:40:58 21	you produced?
13:38:11 22	MR. MOBLEY: Same objections.	13:40:58 22	A. Yes, I believe it is one of the ones. I
13:38:14 23	THE WITNESS: The -- yeah, generally	13:41:00 23	can double-check that. Yes.
13:38:16 24	they're -- well, they're going to look at the sign	13:41:03 24	Q. So you took this picture back in 2004?
13:38:18 25	and read it, quote, read it, glance at it and, you	13:41:09 25	A. I believe so.
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13:38:23 1	know, make an evaluation, is that talking about what	13:41:09 1	Q. And so there's no question there that --
13:38:25 2	this business is on this particular site or is it	13:41:09 2	you see there's a Summit media billboard there to
13:38:28 3	just a regular sign advertising something not to do	13:41:12 3	the right?
13:38:30 4	with that building? I think they'll make that	13:41:12 4	A. Okay.
13:38:32 5	decision pretty quickly.	13:41:14 5	Q. Do you see that?
13:38:32 6	BY MS. BRILL:	13:41:14 6	A. Yes.
13:38:41 7	Q. One of the factors you mentioned was the	13:41:15 7	Q. And there's no question that that sign has
13:38:42 8	relative size in the driver's eye, correct?	13:41:17 8	a bigger impact on the driver's retina than the bus
13:38:44 9	A. Yes.	13:41:21 9	shelter ad below, correct?
13:38:46 10	Q. Let's say for -- for a -- if a -- what's --	13:41:24 10	A. From this exact position, that's correct.
13:38:52 11	do you know what the size is of a typical bus	13:41:27 11	Q. And then if you went farther back, that
13:38:54 12	shelter sign?	13:41:29 12	would still be correct, right?
13:38:55 13	A. Well, I believe they're -- let's just say	13:41:31 13	A. It would be correct for a while, but once
13:39:04 14	historically I have known. At the moment I may not	13:41:32 14	you get back to the cone, the 15-degree cone, it --
13:39:07 15	know.	13:41:36 15	not necessarily correct. It's not necessarily
13:39:08 16	They vary some. I'm not sure. I think 67	13:41:38 16	correct.
13:39:15 17	by 45 is close, but I think I've also seen them down	13:41:38 17	Q. Would you have to move forwards or
13:39:19 18	around 3 feet wide.	13:41:40 18	backwards here to get to the -- to get to that cone?
13:39:20 19	Q. 67 by 45, that's inches?	13:41:43 19	A. Well, in the case of the -- the small --
13:39:22 20	A. Yes. Yeah. Yes, inches.	13:41:46 20	the bus stop shelter sign, I suspect you would move
13:39:26 21	Q. And have you done any -- have you -- have	13:41:49 21	forwards. And just -- just sort of estimating
13:39:30 22	you collected any data on what the -- the distance	13:41:53 22	rough -- a crude estimate, maybe halfway on that
13:39:36 23	that would be comparable for a larger sign or how a	13:41:56 23	driveway there would probably be around 15 degrees
13:39:40 24	larger sign -- how much farther away a larger sign	13:41:58 24	on the bus stop sign.
13:39:43 25	would be to be comparable in terms of the impact on	13:42:01 25	And on the -- the Summit Media sign you
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13:42:04 1	would have to move backwards, you know, a distance	13:44:17 1	A. The -- do I have a reason to believe it
13:42:09 2	I'm not sure how far. But --	13:44:22 2	would? My point -- okay. I'll avoid the question
13:42:10 3	Q. You're saying -- you're saying the Summit	13:44:28 3	and just say my point was is how big is the -- is
13:42:12 4	Media sign here is not within the 15-degree cone?	13:44:30 4	the image in the retina of, let's say, two different
13:42:15 5	A. No, I don't believe so.	13:44:34 5	sign locations. One larger, but further away and
13:42:16 6	Q. And how do you know that? You didn't make	13:44:38 6	one smaller, but up closer to the curb. That was my
13:42:18 7	any measurements of that at the time, did you?	13:44:41 7	purpose. It was not to say, well, one is -- is --
13:42:20 8	A. No. No, you would have to calculate it.	13:44:45 8	is dangerous, a dangerous condition, and the other
13:42:23 9	Q. Okay. And you have not done that, correct?	13:44:47 9	is not.
13:42:24 10	A. That's correct.	13:44:48 10	I -- I've pretty well stated that I don't
13:42:25 11	Q. And sitting here today, you can't tell	13:44:51 11	believe either sign is -- is dangerous, a dangerous
13:42:27 12	that, can you?	13:44:56 12	condition. I believe both of them are safe.
13:42:28 13	A. That's correct.	13:44:57 13	Q. Okay. And so let's say we were 100 yards
13:42:32 14	Q. And if you moved backwards from the place	13:45:01 14	further back than the picture here is taken.
13:42:38 15	where this is taken, the -- the bus shelter sign	13:45:05 15	A. Okay.
13:42:40 16	would still be within the 15-degree cone, correct?	13:45:06 16	Q. And both signs are within the 15-degree
13:42:43 17	A. Within it. Now, back to definitions, I --	13:45:08 17	cone, correct?
13:42:46 18	I've said assuming it's at the 15-degree cone mark.	13:45:08 18	A. Yes.
13:42:50 19	That's where I've -- I've chosen to compare the	13:45:10 19	Q. The Summit Media sign will be much larger
13:42:53 20	slides -- size.	13:45:13 20	in the retina than this bus shelter sign, correct?
13:42:55 21	So you would put the bus stop shelter sign	13:45:17 21	A. That's correct.
13:42:58 22	at the -- at the boundary, the 15-degree cone, and	13:45:17 22	Q. Okay. And that will be true, at least
13:43:01 23	see how big that is in the retina, calculate it out,	13:45:20 23	until one of those signs falls out of your 15-degree
13:43:05 24	and then you'd move backwards and determine	13:45:24 24	cone, correct?
13:43:11 25	Summit -- the Summit Media sign where -- how far	13:45:27 25	A. That -- well, I -- why don't you say that
	114		116
13:43:14 1	back that would be in -- in -- and also how much --	13:45:29 1	again, please. Repeat it.
13:43:18 2	how big it would appear in the retina. You know,	13:45:30 2	Q. That will be true, at least until one of
13:43:21 3	the size image it would be on the retina. That's	13:45:33 3	the signs falls out of the 15-degree cone, correct?
13:43:24 4	how you'd do it.	13:45:38 4	A. The fact that one would look bigger than
13:43:25 5	Q. So that edge of the cone, though, signs are	13:45:40 5	the other?
13:43:28 6	visible within the cone for periods not only when	13:45:40 6	Q. Yes.
13:43:32 7	they're just at the edge of that 15-degree cone,	13:45:43 7	A. Yes. As long as the -- as -- well, the
13:43:32 8	correct?	13:45:45 8	last one to fall out of the 15-degree cone is going
13:43:35 9	A. That's absolutely correct. The -- but like	13:45:48 9	to be the bus stop shelter sign, at least in this
13:43:37 10	I said, you have to make a definition somewhere.	13:45:50 10	case.
13:43:39 11	Q. And why did you pick that one?	13:45:51 11	So I suppose when one of them falls out,
13:43:41 12	A. Well, I picked 15 degrees, as I said	13:45:54 12	then the other one -- the bigger one falls out,
13:43:44 13	before, because that's -- I'll call it custom and	13:45:59 13	then, of course, the smaller one starts looking
13:43:46 14	practice of traffic engineering, that's the 15	13:46:01 14	bigger and eventually it looks as big as the big
13:43:49 15	degrees. And -- and if you don't -- well, if you	13:46:07 15	one.
13:43:53 16	don't pick some criteria, you know, you're just --	13:46:07 16	So I think that's responsive. I don't
13:43:57 17	you're really not -- you got to have a criteria, you	13:46:07 17	know.
13:44:01 18	got to have a yardstick. That's the yardstick I	13:46:10 18	Q. So for a split second when the -- when the
13:44:04 19	used.	13:46:11 19	larger sign is fallen out of the cone, the remaining
13:44:04 20	Q. So you -- but is there any -- is there any	13:46:14 20	sign is bigger?
13:44:06 21	study that says that that particular yardstick	13:46:16 21	A. Oh, it grows. It would grow in size until
13:44:08 22	correlates to traffic safety?	13:46:18 22	it falls out of the cone.
13:44:11 23	A. No.	13:46:31 23	MS. BRILL: Can you mark this one as
13:44:11 24	Q. And did you have any reason for believing	13:46:32 24	Exhibit 16, please?
13:44:16 25	that it would?	13:46:32 25	(The document referred to was
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13:46:32 1 marked for identification by the  
 13:46:32 2 C.S.R. as Exhibit 16 and attached  
 13:46:48 3 to this deposition.)  
 13:46:48 4 BY MS. BRILL:  
 13:46:48 5 Q. Is this also one -- is Exhibit 16 also one  
 13:46:50 6 of the pictures that you took back in 2004?  
 13:46:52 7 A. I believe it is, yes.  
 13:46:54 8 Q. And this is a sign -- the picture shows a  
 13:46:59 9 Third Street intersection with a -- an L.A. Rocking  
 13:47:03 10 Chair store and a bus shelter and then another  
 13:47:10 11 sign -- few other signs along with that?  
 13:47:11 12 A. Yes.  
 13:47:12 13 Q. Okay. Do you know -- did you study whether  
 13:47:27 14 any drivers would mistake -- see that sign on the  
 13:47:30 15 yellow wall, there's a yellow brick wall there with  
 13:47:34 16 a sign on it that says -- what does it say,  
 13:47:36 17 "Black" -- "Black Book"?  
 13:47:37 18 A. I see the sign. I guess that's what it  
 13:47:42 19 says, yes.  
 13:47:42 20 Q. Did you ever survey any drivers to see  
 13:47:45 21 whether they would be confused about whether that  
 13:47:47 22 sign was something associated with the business  
 13:47:54 23 located there?  
 13:47:54 24 A. Well, no, I didn't. But I think this one's  
 13:47:58 25 pretty self-evident that the rocking chair store and

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13:48:03 1 Black Book, or whatever that sign says, is two  
 13:48:05 2 different things. I mean, that's pretty obvious.  
 13:48:09 3 And you might -- you might even add the same sign is  
 13:48:11 4 also on the bus shelter there. The exact same sign,  
 13:48:14 5 it appears.  
 13:48:15 6 Q. So it becomes obvious when you read the  
 13:48:17 7 sign, but not just by looking at the structure,  
 13:48:17 8 correct?  
 13:48:21 9 A. Yes. That's correct, yes.  
 13:48:23 10 Q. And here the -- there's some signs for a  
 13:48:26 11 Pets Only and a cleaners and a printer, correct?  
 13:48:26 12 A. Yes.  
 13:48:34 13 Q. And when you're -- at the angle that this  
 13:48:37 14 picture was taken, do you know whether the -- the  
 13:48:39 15 sign against the yellow wall was within the 15 foot  
 13:48:42 16 [sic] cone?  
 13:48:42 17 A. I -- I don't.  
 13:48:44 18 Q. And in order to see that sign, a driver  
 13:48:46 19 might have to look to the right away from traffic?  
 13:48:50 20 MR. MOBLEY: Objection. Incomplete  
 13:48:56 21 hypothetical.  
 13:48:56 22 THE WITNESS: The -- well, seeing any sign,  
 13:48:59 23 the driver might look away from traffic, yes.  
 13:49:05 24 BY MS. BRILL:  
 13:49:06 25 Q. And the angle -- because that sign is

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13:49:08 1 farther away from the street than the bus shelter  
 13:49:10 2 sign, the person might have to look at a more  
 13:49:12 3 extreme angle in order to read the message on that  
 13:49:16 4 sign?

MR. MOBLEY: Objection. Vague as to the  
 term "extreme."

THE WITNESS: They may, and this is -- this  
 particular sign here is a good example. There lots  
 of little typing at the bottom, lots of words at the  
 bottom. I don't know what they say, but I -- you  
 know, maybe a disclaimer or something.

But those words, you know, I'm not sure you  
 could hardly read them anywhere, unless you're  
 sitting right beside the sign. You know, for  
 instance, if you're parked there by the newspaper  
 rack, maybe you could read the one -- read the one  
 on the bus shelter, but here's an example where it's  
 pretty hard to classify that this sign's readable  
 from a certain location.

The number of -- the size of letters  
 just -- you know, looking at it and estimating,  
 there's like four or five sizes of letters on that  
 particular sign.

The "Black Book" is fairly large and -- but  
 then the other letters, you can't read them in this

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13:50:02 1 picture anyway. At least I can't. And some of  
 13:50:08 2 those words are very small.  
 13:50:10 3 BY MS. BRILL:  
 13:50:10 4 Q. And the people sitting at the bus shelter,  
 13:50:12 5 though, could read them on the bus shelter?  
 13:50:13 6 A. They could, yes.  
 13:50:14 7 Q. And there's no place comparable to sit in  
 13:50:17 8 the shade next to the sign that's on the business,  
 13:50:17 9 correct?  
 13:50:17 10 MR. MOBLEY: I'm sorry, what was the  
 13:50:27 11 question? Can I have that read back.  
 13:50:27 12 (The reporter read the record  
 13:50:27 13 as follows:  
 13:50:14 14 "QUESTION: And there's no  
 13:50:15 15 place comparable to sit in the  
 13:50:17 16 shade next to the sign that's on  
 13:50:19 17 the business, correct?")  
 13:50:29 18 MR. MOBLEY: I'll object that it's vague  
 13:50:30 19 and ambiguous.  
 13:50:30 20 THE WITNESS: In this case, there is no  
 13:50:32 21 place -- well, arguably there's no easy place to sit  
 13:50:37 22 and read -- and see the sign in the shade. I  
 13:50:39 23 suppose the shade of that sign, the "310 South"  
 13:50:41 24 sign, I suppose you could sit there somewhere and be  
 13:50:45 25 in the shade, but it would be easier to sit in the

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13:50:47 1 shade on the bus bench, that's for sure.  
 13:50:50 2 BY MS. BRILL:  
 13:50:51 3 Q. And if that bus shelter wasn't there, the  
 13:50:59 4 only way to identify that as a bus stop would be  
 13:51:02 5 that little pole sign with the letter M on top.  
 13:51:02 6 Is that right?  
 13:51:08 7 A. No, I would say that's not right. The bus  
 13:51:10 8 stop shelter could be there without the sign.  
 13:51:17 9 There's no reason that the bus stop shelter has to  
 13:51:19 10 have that sign.  
 13:51:20 11 Q. The question was, if the bus shelter wasn't  
 13:51:22 12 there, the only way to identify that as a bus stop  
 13:51:25 13 would be that little pole sign with the letter M on  
 13:51:27 14 top, correct? --  
 13:51:28 15 A. My answer is no, that's not correct.  
 13:51:30 16 Q. Why not?  
 13:51:31 17 A. Because if the bus shelter itself was there  
 13:51:33 18 without the sign, for example, then you'd have the  
 13:51:36 19 bus shelter plus the sign on the pole to identify it  
 13:51:39 20 as a bus stop.  
 13:51:40 21 Q. What's the difference between the answer  
 13:51:42 22 you gave that caused you not to say "yes" to my --  
 13:51:45 23 my question?  
 13:51:46 24 A. I'm not sure.  
 13:51:46 25 Q. Okay.

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13:51:48 1 A. I'm not sure.  
 13:51:49 2 Q. The question -- the question --  
 13:51:50 3 A. Lot of questions.  
 13:51:51 4 Q. The question -- I'm not trying to be  
 13:51:53 5 tricky.  
 13:51:55 6 The question was, if the bus shelter wasn't  
 13:51:57 7 there, the only way to identify that as a bus stop  
 13:52:02 8 would be the little pole sign with the M on top?  
 13:52:05 9 A. That's true in the absence of a bus, yes.  
 13:52:07 10 In the absence of knowledge about the area or  
 13:52:10 11 something.  
 13:52:10 12 Q. And that's harder to see than a bus stop  
 13:52:14 13 with a bus shelter, correct?  
 13:52:14 14 A. Yes.  
 13:52:17 15 Q. And that white sign there on the bus  
 13:52:20 16 shelter makes the shelter, as a whole, more  
 13:52:23 17 prominent, correct?  
 13:52:24 18 A. Probably does, yes.  
 13:52:31 19 MS. BRILL: Would you mark this as  
 13:52:33 20 Exhibit -- Exhibit 17, please.  
 13:52:33 21 (The document referred to was  
 13:52:33 22 marked for identification by the  
 13:52:33 23 C.S.R. as Exhibit 17 and attached  
 13:52:47 24 to this deposition.)  
 13:52:47 25 BY MS. BRILL:

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13:52:48 1 Q. Exhibit 17 is also a -- an image taken from  
 13:52:51 2 your -- the CD that Mr. Mobley produced, and it has  
 13:52:56 3 a street sign on the side that says "Redondo  
 13:53:00 4 Boulevard."  
 13:53:00 5 Do you recognize this as one of the  
 13:53:02 6 pictures that you took?  
 13:53:03 7 A. Yes. I believe I took that picture, yes.  
 13:53:10 8 Q. And again, it would be difficult to  
 13:53:11 9 see the -- there's a bus stop -- let me go back a  
 13:53:14 10 second. Sorry. Strike that.  
 13:53:15 11 There's a bus stop there that has the word  
 13:53:17 12 "Olympic" on it.  
 13:53:19 13 Do you see that toward the right-hand side?  
 13:53:21 14 A. I do see that.--  
 13:53:22 15 Q. And that bus stop would be pretty hard to  
 13:53:24 16 see without that bus shelter there, correct?  
 13:53:28 17 A. Yeah, probably would be, yes.  
 13:53:29 18 Q. And that woman standing there wouldn't have  
 13:53:31 19 any shade to stand in, correct?  
 13:53:33 20 A. That's -- that's correct. She chose to use  
 13:53:36 21 the shade, yes.  
 13:53:37 22 Q. Was this a hot day when you were taking  
 13:53:39 23 these pictures?  
 13:53:40 24 A. I think so. Seemed like -- I don't  
 13:53:42 25 remember. But I think so. It was a bright day. I

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13:53:44 1 know that.  
 13:53:56 2 MS. BRILL: Can you mark this one as  
 13:53:57 3 Exhibit 18.  
 13:53:57 4 (The document referred to was  
 13:53:57 5 marked for identification by the  
 13:53:57 6 C.S.R. as Exhibit 18 and attached  
 13:53:57 7 to this deposition.)  
 13:53:57 8 BY MS. BRILL:  
 13:54:10 9 Q. Before we go --  
 13:54:10 10 THE REPORTER: Thank you.  
 13:54:10 11 BY MS. BRILL:  
 13:54:11 12 Q. Before we go on to -- to 18, we mentioned  
 13:54:12 13 that it was a hot day. So that person there waiting  
 13:54:15 14 for the bus is able to stay cooler on a side -- on  
 13:54:17 15 account of the bus shelter?  
 13:54:20 16 A. Well, it looks like she's not standing in  
 13:54:22 17 the bus -- the shade, but --  
 13:54:23 18 Q. Well, she's half in, half out, right?  
 13:54:25 19 A. Half in, half out. Yeah, presumably shade  
 13:54:29 20 is going to keep you cooler. That's pretty obvious.  
 13:54:31 21 It would help.  
 13:54:32 22 Q. Turning to Exhibit 18. This is another --  
 13:54:37 23 which the court reporter has just marked.  
 13:54:37 24 A. Yeah, I see it. Okay.  
 13:54:53 25 Q. Is this another photograph that you had

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13:54:54 1	taken back in 2004?	13:57:42 1	Pardon me.
13:54:55 2	A. Yes.	13:57:49 2	And -- and the changeable message sign,
13:54:56 3	Q. And we -- it's somewhere along Sixth	13:57:51 3	sometimes it's just, let's say, advertising a movie
13:55:03 4	Street, correct?	13:57:54 4	and just shows a couple, three scenes out of a
13:55:05 5	A. Looks like it's probably not on Sixth	13:57:56 5	movie.
13:55:08 6	Street. It's on a cross street.	13:57:57 6	Q. You're talking about animated signs with
13:55:10 7	Q. Do you know what the street is?	13:57:59 7	motions?
13:55:12 8	A. I think I could check and tell you.	13:57:59 8	A. Okay. If you want to call it that. I'm
13:55:52 9	At the moment I'm not able to tell you	13:58:01 9	just saying anything that changes.
13:55:55 10	exactly where that picture is.	13:58:03 10	Q. Well, I'm asking you what your -- I'm --
13:55:57 11	Q. We'll refer to it as the Sixth Street sign,	13:58:05 11	A. Yeah. I'm saying anything that changes.
13:56:00 12	okay? Or the Sixth Street photograph?	13:58:08 12	If it's not static, if the image changes, whether
13:56:01 13	A. Yes.	13:58:11 13	it's words or whether it's pictures -- so I'm
13:56:02 14	Q. And this one has a bus shelter and a kiosk	13:58:17 14	starting to lose track of the question. What is the
13:56:06 15	right next to it.	13:58:19 15	question?
13:56:06 16	Is that right?	13:58:19 16	Q. The question is whether you had done any
13:56:06 17	A. Yes.	13:58:25 17	studies about changeable messages versus messages
13:56:13 18	Q. And again, it would be harder to see this	13:58:27 18	that do not change?
13:56:15 19	bus stop if it weren't for the shelter and the kiosk	13:58:28 19	A. I have observed -- not as a study, but as a
13:56:18 20	right there, correct?	13:58:32 20	traffic engineer being concerned with these kind of
13:56:24 21	MR. MOBLEY: I'm sorry, can I have the	13:58:35 21	issues, I've observed that and have -- have noticed
13:56:24 22	question read back, again.	13:58:39 22	that some changeable message signs do cause a -- a
13:56:24 23	(The reporter read the record	13:58:46 23	distraction. I'm not sure I'll call it a
13:56:24 24	as follows:	13:58:47 24	significant distraction, but pretty significant
13:56:14 25	"QUESTION: It would be	13:58:51 25	distraction because of the message they're showing
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13:56:14 1	harder to see this bus stop if it	13:58:53 1	And the ones that come to mind is the one I
13:56:16 2	weren't for the shelter and the	13:58:55 2	mentioned earlier, ball scores. I mean, a lot of
13:56:17 3	kiosk right there, correct?")	13:58:58 3	people, a lot of guys, you know, they want to see
13:56:31 4	THE WITNESS: Yes is the answer.	13:59:00 4	what the score was. And when you had a changeable
13:56:31 5	BY MS. BRILL:	13:59:12 5	message sign kind of scrolling across, you know,
13:56:52 6	Q. And then on that list we -- you also --	13:59:12 6	showing the -- you know, the Dodgers' score and then
13:56:57 7	that list we were referring to back in your	13:59:12 7	somebody else's score, well, you know, you're
13:57:00 8	declaration, we also -- you also mentioned	13:59:12 8	tempted, or some people, guys -- guys in this case
13:57:04 9	changeable messages.	13:59:15 9	are tempted to read that.
13:57:04 10	A. Yes.	13:59:16 10	And likewise, if you got some -- something
13:57:08 11	Q. Do you recall that?	13:59:18 11	going with, you know, movies playing or something
13:57:08 12	A. Yes.	13:59:21 12	like that, people will -- you know, they're tempted
13:57:09 13	Q. Have you done any studies yourself about	13:59:24 13	to -- to look at those things and -- and look at it
13:57:10 14	changeable messages versus messages that do not	13:59:28 14	to try to catch the last part of that message or the
13:57:13 15	change?	13:59:30 15	next message as it comes along.
13:57:17 16	A. The -- I have observed the -- the	13:59:32 16	So I find those -- those signs are much
13:57:20 17	changeable message signs in various situations.	13:59:35 17	more distracting than a static sign, static message
13:57:26 18	Q. What changeable message signs are you	13:59:39 18	sign.
13:57:28 19	talking about?	13:59:40 19	MS. BRILL: Okay. So I'm going to move to
13:57:28 20	A. Well, changeable message signs, I've seen	13:59:41 20	strike the portion of that answer after "not as a
13:57:31 21	them on the back of buses, I've seen them on top of	13:59:45 21	study." So the question was -- as nonresponsive.
13:57:34 22	taxis. Not necessarily in L.A., but I've seen them	13:59:49 22	Q. The question was whether you have done any
13:57:36 23	on buses. I've seen them on taxis. Of course, I've	13:59:51 23	studies about changeable messages versus messages
13:57:39 24	seen them; you know, on -- on signs themselves that	13:59:55 24	that do not change.
13:57:42 25	are not on bus stops or on taxis, on buses or taxis.	13:59:56 25	Is the answer to that question "no"?
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13:59:58 1	A. No. The answer's yes. And I would -- I	14:02:23 1	Q. And you haven't reviewed any literature on
14:00:00 2	would debate the word "study." I don't have to be	14:02:25 2	that topic, correct?
14:00:03 3	paid, I don't have to make notes, write a report to	14:02:26 3	A. No, I haven't.
14:00:07 4	conduct a study. There's informal studies.	14:02:32 4	Q. And you haven't written on that topic,
14:00:10 5	I would say I've done an informal study on	14:02:32 5	correct?
14:00:12 6	my own trying to -- you know, using engineering	14:02:34 6	A. Not -- no, not -- no, I have not. I have
14:00:15 7	judgment, trying to fine-tune my engineering	14:02:36 7	not prepared a report.
14:00:18 8	judgment to see if -- if I think those signs are	14:02:37 8	Q. And did -- in making these observations,
14:00:21 9	distracting.	14:02:40 9	were they at a single location or various locations
14:00:22 10	And I find they're much more distracting	14:02:43 10	wherever you happened to be at the time?
14:00:24 11	than a static message, because a static message, you	14:02:44 11	A. Various locations, various points in time.
14:00:29 12	glance at it and you know what it says. And if	14:02:47 12	Every time I see a changeable message sign I -- you
14:00:31 13	you're further interested in the message, you glance	14:02:50 13	know, I -- I look. I observe. I say how
14:00:33 14	at it again once in a while when you sort of have a	14:02:53 14	distracting -- pardon me -- how distracting is that
14:00:36 15	chance. You're not -- your eyes aren't needed to	14:02:56 15	sign? And just do a -- you know, a common sense
14:00:38 16	drive down the road. So you glance at it and you	14:02:59 16	evaluation.
14:00:40 17	also know if you -- if it's your home-to-work route,	14:03:01 17	Q. But you haven't taken any measures of that?
14:00:44 18	you know you'll see it tomorrow if you don't see it	14:03:03 18	A. How would you measure that? I just asked
14:00:46 19	today.	14:03:06 19	you that question. What are you going to do? I
14:00:46 20	But in the case of changeable message	14:03:09 20	mean, if people -- it's distracting to a typical
14:00:49 21	signs, it's changing. The content is changing maybe	14:03:12 21	person.
14:00:52 22	even hourly. So it's more distracting.	14:03:12 22	I'm pretty typical. And if I want to see
14:01:03 23	Q. And you're using the word "distracting"	14:03:15 23	what the ball score is, I'm going to try to figure
14:01:05 24	there in the same sense that you used it in your	14:03:18 24	it out as I'm driving. Who else won the other game?
14:01:06 25	2007 report and your 2004 report?	14:03:21 25	Kind of looking, trying to drive and look, because
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14:01:09 1	A. Yes.	14:03:23 1	you -- those scores are coming up every -- you know
14:01:10 2	Q. Okay. And have you -- have you made any	14:03:26 2	like -- as I recall the one I saw that I'm thinking
14:01:17 3	notes regarding changeable messages?	14:03:31 3	of was running -- it was kind of running across
14:01:21 4	A. No. I've -- I've just stated that I've --	14:03:33 4	the -- the screen and -- and so maybe the score was
14:01:24 5	whenever I see a changeable message sign, I look at	14:03:37 5	up -- up on the screen only probably less than two
14:01:27 6	it and observe from a -- you know, an interest, a	14:03:42 6	seconds, you know, a second and a half.
14:01:31 7	kind of knowledge point of view, I observe what it	14:03:44 7	And so if you didn't look in that second
14:01:34 8	is. And how -- you know, I -- sometimes I'll look	14:03:46 8	and a half and recognize the characters, you know,
14:01:36 9	and see if other people are looking at it.	14:03:49 9	the -- the -- the letters being formed by a -- a
14:01:38 10	And in the case of the ballpark score I	14:03:56 10	light matrix, which are harder to read than just
14:01:41 11	mentioned, I mean, I saw people just rubbernecking	14:03:56 11	regular text. So I -- you know, so I've looked at
14:01:44 12	trying to figure out what that -- that message was.	14:03:59 12	them and -- and very specifically tried to determine
14:01:46 13	Q. Have you taken -- have you attempted to do	14:04:02 13	how -- how distracting is that.
14:01:48 14	a scientific analysis on changeable messages?	14:04:07 14	And my conclusion was it's pretty
14:01:52 15	A. I want to say yes. I would classify what I	14:04:09 15	distracting if you want to see what's on that --
14:01:57 16	did as scientific to some degree.	14:04:11 16	what the score is or whatever else.
14:01:57 17	Q. And what was it --	14:04:12 17	And also, I didn't say it, a lot of them
14:01:59 18	A. It was statistically -- statistic and	14:04:15 18	have like latest breaking news. And -- and today,
14:02:03 19	all -- you know, statistically significant,	14:04:20 19	you know, with all of the -- you know, the election
14:02:05 20	confidence and intervals and all that? No. But I	14:04:23 20	and all of the other things that are -- election and
14:02:07 21	think to say that people look at changeable message	14:04:25 21	the price of oil at, you know, 4.50 a gallon and
14:02:09 22	signs longer and harder and more intently than they	14:04:29 22	crude oil at 135 or whatever it is today and, you
14:02:12 23	do a static sign, I think is -- I -- I -- I'm	14:04:33 23	know, Iran and Iraq, and Obama is over in Iran I
14:02:15 24	convinced that's the case and would be happy to do a	14:04:38 24	think today -- I mean, I'm sorry, in Iraq I think
14:02:19 25	study to prove it.	14:04:40 25	today, you know, all of these factors, you know.
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14:04:43 1 And they're scrolling the -- the latest  
 14:04:46 2 greatest news, you know, "Obama says," or whatever  
 14:04:49 3 And you're kind of perhaps interested in what's  
 14:04:51 4 going on. Or you know, oh -- oh it's up. How much  
 14:04:55 5 is it up?  
 14:04:56 6 So I think they're -- they're distracting  
 14:04:58 7 because people are going to look at them. I would  
 14:05:00 8 look at them. I'm not a big sports fan, but I -- I  
 14:05:03 9 am a news junky, so I probably would look at the  
 14:05:06 10 news one ahead of the -- the sports one.  
 14:05:08 11 Q. Okay. So you're talking primarily about  
 14:05:11 12 the scrolling types of signs there, right?  
 14:05:13 13 A. Yes.  
 14:05:14 14 MR. MOBLEY: Objection. Vague and  
 14:05:18 15 ambiguous.  
 14:05:18 16 THE WITNESS: Well, I'm classifying it as  
 14:05:22 17 if it's a changeable message, it has the potential  
 14:05:24 18 for the person, the driver, let's talk about, to be  
 14:05:28 19 interested in whatever that message might be.  
 14:05:32 20 And in some cases, it's just a movie or  
 14:05:34 21 something, which I personally wouldn't be looking at  
 14:05:37 22 too much, but some people do. That's what they want  
 14:05:38 23 to know about is the latest movie.  
 14:05:38 24 BY MS. BRILL:  
 14:05:41 25 Q. But when you're just talking about news

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14:05:43 1 scores and ball scores, you're talking there about  
 14:05:46 2 primarily the scrolling messages, correct?  
 14:05:49 3 A. Yes. Or, you know -- and let's talk about  
 14:05:52 4 say a -- If you're driving by Anaheim Stadium or  
 14:05:55 5 Dodger Stadium or somewhere where there's a message  
 14:05:58 6 sign up there that says, you know, Angels play  
 14:06:02 7 whoever tonight, you know, 7:00 o'clock, seats  
 14:06:04 8 available, those are the kind of things people would  
 14:06:07 9 look at. And those messages do change. So it's not  
 14:06:10 10 just a scrolling. In that case, it's a large sign.  
 14:06:41 11 Q. I want to turn to conclusion 4 of your 2007  
 14:06:43 12 report.  
 14:06:59 13 At the bottom of that paragraph you say --  
 14:07:02 14 I believe you're talking about bus shelter signs and  
 14:07:04 15 you say:  
 14:07:04 16 "Some of these signs have  
 14:07:05 17 actually impacted motorists' line  
 14:07:07 18 of site vision at intersections."  
 14:07:09 19 Do you see that?  
 14:07:09 20 A. Yes.  
 14:07:09 21 Q. What signs are you talking about there?  
 14:07:16 22 A. The -- I believe I was talking about -- I  
 14:07:19 23 think there's a picture here somewhere. There's  
 14:07:26 24 a -- well, it happens in more than one place.  
 14:07:29 25 Any time you have a bus stop, particularly

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14:07:33 1 if it's a near-sided bus stop -- not all bus stops  
 14:07:36 2 are far-sided, Some of them are near-sided -- they  
 14:07:36 3 start to impact the ability to see the cross street.  
 14:07:41 4 "Near-side" meaning it's before you get to  
 14:07:42 5 the intersection. "Far-side" meaning it's after you  
 14:07:44 6 pass through the intersection, that's where the bus  
 14:07:46 7 stop is.  
 14:07:48 8 I think in any -- any case where the bus  
 14:07:50 9 stop shelter is near-side, then it, to some degree,  
 14:07:54 10 blocks your view of cross traffic.  
 14:07:56 11 Also, if the -- if there's a -- it's like a  
 14:08:01 12 driveway. So there's a driveway, you have a bus --  
 14:08:04 13 a kiosk or a bus stop shelter sign, and there's a  
 14:08:08 14 nearby driveway, it's possible that it -- It makes  
 14:08:12 15 it more difficult for a driver coming out of a  
 14:08:14 16 driveway to -- to see to the right or to the left or  
 14:08:18 17 both.  
 14:08:18 18 Q. And did you make any determination about  
 14:08:20 19 whether any particular location was dangerous as a  
 14:08:23 20 result of that placement?  
 14:08:25 21 A. No. I -- I don't believe they're  
 14:08:28 22 dangerous. It just makes it more difficult to see.  
 14:08:30 23 Q. And you didn't -- you didn't report any  
 14:08:31 24 concerns about that to the City, correct?  
 14:08:34 25 A. I believe that's correct.

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14:08:35 1 Q. And you didn't report anything about that  
 14:08:37 2 to CBS Decaux, correct?  
 14:08:39 3 A. No, I didn't report anything to CBS.  
 14:08:42 4 Q. You didn't report any concerns about those  
 14:08:44 5 signs to anyone, right?  
 14:08:45 6 A. I've not communicated with CBS.  
 14:08:47 7 Q. You didn't report about any of those  
 14:08:49 8 locations to anybody in terms of any concerns about  
 14:08:51 9 safety, correct?  
 14:08:53 10 A. That's correct.  
 14:09:19 11 Q. Now, just getting back to the question of  
 14:09:20 12 changeable messages for a second, you -- you say in  
 14:09:23 13 your report, at the top of page 10, talking about  
 14:09:30 14 changeable signs, that they are perhaps a  
 14:09:33 15 significant distraction.  
 14:09:35 16 Do you see that? That's at the very top of  
 14:09:36 17 page 10.  
 14:09:36 18 A. Yes. I'm -- I'm -- I'm saying they're --  
 14:09:57 19 they're, you know, are slice and -- we've run out of  
 14:10:00 20 words; significant, insignificant, maybe  
 14:10:04 21 significant, but the large flashing signs that I'm  
 14:10:06 22 referring to here, they're pretty -- they -- they  
 14:10:12 23 get your attention, and some people more than  
 14:10:16 24 others.  
 14:10:16 25 And I would say maybe they are a

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14:10:20 1 distraction, significant distraction.	14:13:12 1 You say in your conclusion 2 at page 9 of
14:10:20 2 Q. But you haven't reached a conclusion about	14:13:15 2 your 2007 report:
14:10:20 3 that? You're saying perhaps, maybe. You have not	14:13:17 3 "Everything at which a driver
14:10:23 4 reached a conclusion about that, correct?	14:13:18 4 may look away from the roadway is a
14:10:25 5 A. Well, I -- I think we're -- we're now	14:13:22 5 distraction."
14:10:28 6 mincing, slicing and dicing the words.	14:13:22 6 Right?
14:10:31 7 I'm saying I think at least in some cases	14:13:25 7 A. That's what I said. And I hopefully
14:10:33 8 they probably are a significant distraction. Not to	14:13:27 8 defined it adequately on page 2 of that same report
14:10:37 9 every driver, obviously. Most drivers could care	14:13:31 9 where I -- I basically said-if you're not looking at
14:10:40 10 less what that sign says.	14:13:34 10 the road, then you're looking at something. It is a
14:10:42 11 But some drivers are looking at it and it's	14:13:36 11 distraction one way or another. Distraction comes
14:10:45 12 pretty eye-catching. Those things at night,	14:13:39 12 in, you know, all shades of -- of gray, from very
14:10:48 13 particularly, they're very, very bright. They're --	14:13:45 13 little -- from no distraction, where you just glance
14:10:51 14 they're very bright. And very -- people look at	14:13:46 14 away, to, you know, very intense distraction where
14:10:56 15 them.	14:13:50 15 you're almost forced to look at it.
14:10:58 16 Q. People look at them.	14:13:53 16 Q. So in Exhibit 18, the building that's
14:10:59 17 So -- but have you studied any correlation	14:13:57 17 there, that's a distraction because you're looking
14:11:03 18 between changeable messages and traffic accidents?	14:14:00 18 away from the roadway?
14:11:05 19 A. No.	14:14:02 19 A. Yes. If you can come up with a better word
14:11:07 20 Q. Do you know of any correlation between	14:14:06 20 you want to substitute for "distraction," I'll
14:11:08 21 changeable messages and traffic accidents?	14:14:10 21 concur, just not -- but it's -- it's a word that I
14:11:10 22 A. Not that's been proven.	14:14:12 22 picked that I thought captured the essence of what
14:11:25 23 Q. You used the word "flash" in your last	14:14:16 23 we were dealing with.
14:11:27 24 answer.	14:14:17 24 Q. And -- and in Exhibit 15, those palm trees
14:11:27 25 What do you mean when you used the word	14:14:19 25 are a distraction?
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14:11:29 1 "flash"?	14:14:20 1 A. Yes. Anything that keeps you from looking
14:11:29 2 A. Well, I -- I guess -- what I would mean is	14:14:23 2 exactly at the road is a distraction. And I think
14:11:37 3 it changes from one -- one image to another. I	14:14:26 3 the better driver -- the best driver, better
14:11:40 4 suppose "flash" is not maybe a perfect word, but it	14:14:29 4 drivers, you know, their eyes -- you should scan.
14:11:44 5 flashes out a message. I mean, it's not a flash	14:14:32 5 You know, your eyes should be scanning right to
14:11:48 6 meaning one tenth of a second, but it goes from one	14:14:34 6 left, and to some degree up and down, and you should
14:11:50 7 message to another and it sort of flashes a message.	14:14:37 7 be monitoring. You're monitoring the situation. Is
14:11:54 8 I think it's a proper word. But I would maybe	14:14:40 8 there a car coming that may not stop? Or in the
14:11:58 9 retract it if you wanted to object to the word	14:14:45 9 case of a signal, you know, you actually have to
14:12:01 10 "flash."	14:14:47 10 look up a little bit from the road to see a traffic
14:12:01 11 Q. Well, are you aware there's a state law	14:14:47 11 signal.
14:12:03 12 definition of the word "flash"?	14:14:51 12 So I think a good driver is scanning. And
14:12:05 13 A. Well, no, I'm not aware of it necessarily	14:14:53 13 to start saying, well, if you look at the signal
14:12:09 14 in this sense.	14:14:55 14 It's not a distraction, but if he looks at the bus
14:12:10 15 Q. And you weren't using the word "flash"	14:14:57 15 stop, it is. He's looking elsewhere besides the
14:12:12 16 under -- as a -- in that meaning, correct?	14:15:02 16 center of the road routinely. Eyes should be going
14:12:15 17 A. Yes, I would say I was not using that word	14:15:06 17 everywhere when you're driving.
14:12:17 18 in that meaning.	14:15:07 18 Q. So looking at a stop sign, in your
14:12:19 19 Q. You just meant anything that changes?	14:15:09 19 definition, that would be a -- looking at a
14:12:21 20 A. Yeah.	14:15:11 20 distraction?
14:12:59 21 Q. So I want to return to your definition of	14:15:11 21 A. I would say no. I mean, there's --
14:13:01 22 "distraction" where paragraph 2 you say everything	14:15:13 22 there's -- maybe it should say if -- if you're
14:13:06 23 which a driver may -- may look away from the	14:15:19 23 looking at only things that are totally involved in
14:13:10 24 roadway -- everything -- excuse me. Let me start	14:15:22 24 the process of driving a car, which would include
14:13:12 25 again.	14:15:26 25 traffic signals and stop signs and curve signs and
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14:15:30 1 those things, that I don't think I'd call it a	14:17:36 1 stop shelter. I don't know what the ratio is, but I
14:15:31 2 distraction. That's just monitoring your driving.	14:17:40 2 strongly suspect that most bus stops don't have bus
14:15:36 3 Monitoring the road and driving accordingly.	14:17:43 3 stop shelters. And so you'd better be ready to stop
14:15:40 4 But anything else that's non-essential for	14:17:46 4 or react if the bus stops, you know, whether there's
14:15:42 5 driving, looking at the price of gas on the gas	14:17:49 5 a bus stop shelter or not.
14:15:44 6 station or whatever, I -- I just said, okay, that's	14:17:50 6 So I don't think of the bus stop as being a
14:15:47 7 a distraction. One way or another it's taking your	14:17:53 7 major visual cue used by a driver to monitor if the
14:15:50 8 eye off of the driving task and putting it -- you	14:17:57 8 bus is going to stop in front of him. I just don't
14:15:54 9 know, doing something else. And we all do it every	14:18:00 9 think that's true.
14:15:57 10 day, obviously. Probably every second almost that	14:18:27 10 Q. So, in any event, referring back to what
14:15:59 11 you drive, every five seconds I'm sure we've got a	14:18:29 11 you said earlier, you regard scanning your
14:16:03 12 distraction in our eyes.	14:18:31 12 surroundings in general as part of the driving task,
14:16:05 13 Q. And observing a bus shelter is part of the	14:18:31 13 correct?
14:16:09 14 driving task, correct?	14:18:35 14 A. Yes, absolutely.
14:16:12 15 A. I don't know. I wouldn't say so. I --	14:18:35 15 Q. Okay. --
14:16:12 16 it -- no. I -- I would say that you monitor the	14:18:37 16 A. Important part.
14:16:16 17 traffic ahead of you. If there's a bus there and he	14:18:40 17 Q. And making predictions about what's going
14:16:19 18 has got his blinkers on or something, he or she has	14:18:41 18 to happen up the road is part of the driving task,
14:16:23 19 their blinkers on, you realize the bus might stop.	14:18:41 19 correct?
14:16:28 20 And any car might stop for whatever reason in front	14:18:45 20 A. I'd -- I'd buy that, yes.
14:16:30 21 of you.	14:18:53 21 Q. Have you ever ridden a bus in Southern
14:16:31 22 You're monitor -- monitoring this traffic,	14:18:55 22 California?
14:16:32 23 including the bus ahead of you. I don't think the	14:18:55 23 A. Yes.
14:16:34 24 bus stop shelter becomes your primary cue that, oh,	14:18:56 24 Q. Have you ever waited for a bus at a stop
14:16:37 25 my gosh, there's a bus stop coming up and I better	14:18:58 25 with a shelter?
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14:16:40 1 be ready to stop because the bus may stop. If	14:18:58 1 A. Yes.
14:16:43 2 there's no bus in sight, clearly the bus stop	14:19:00 2 Q. Have you waited for a bus at a stop without
14:16:46 3 doesn't mean too much.	14:19:01 3 a shelter?
14:16:46 4 Q. Are you saying bus -- bus behavior and bus	14:19:02 4 A. Yes.
14:16:50 5 stops are unrelated to the process of driving?	14:19:03 5 Q. And bus shelters are a convenience for bus
14:16:53 6 MR. MOBLEY: Objection. That's compound.	14:19:06 6 drivers [sic], correct?
14:16:57 7 THE WITNESS: I'm not sure I -- no, I would	14:19:07 7 MR. MOBLEY: Objection. Calls for
14:16:59 8 not say -- if I said that, I didn't mean to imply	14:19:10 8 speculation.
14:17:02 9 that.	14:19:10 9 THE WITNESS: I think you said "bus
14:17:02 10 BY MS. BRILL:	14:19:12 10 drivers." You meant bus riders?
14:17:04 11 Q. Is bus behavior unrelated to the process of	14:19:12 11 BY MS. BRILL:
14:17:07 12 driving?	14:19:15 12 Q. Bus riders, excuse me. Thank you.
14:17:07 13 A. Observing what a bus is doing? Yes, that's	14:19:18 13 A. Are bus shelters a convenience for bus
14:17:10 14 part of driving.	14:19:20 14 riders? Yes.
14:17:10 15 Q. Okay. And is observing a bus stop where a	14:19:21 15 Q. And they provide shelter from rain and wind
14:17:13 16 bus may pull over part of driving?	14:19:23 16 and sun?
14:17:15 17 MR. MOBLEY: Objection. That's an	14:19:24 17 A. Yes.
14:17:16 18 incomplete hypothetical.	14:19:24 18 Q. And they provide a place to sit while
14:17:17 19 THE WITNESS: I would say that's a very	14:19:26 19 waiting for a bus, correct?
14:17:20 20 secondary task compared to monitoring the bus. If I	14:19:28 20 A. Sometimes, yes.
14:17:23 21 was driving, I would be worrying about the bus and	14:19:29 21 Q. And they promote bus ridership, correct?
14:17:26 22 not worrying about the bus stop shelter. And if I	14:19:32 22 A. Probably, yes.
14:17:29 23 see a bus at a bus stop shelter, maybe I say, oh,	14:19:32 23 Q. And they help reduce traffic congestion,
14:17:32 24 maybe he's going to stop.	14:19:32 24 correct?
14:17:33 25 But, you know, not every bus stop has a bus	14:19:36 25 A. Yeah, that's -- yes, that's correct.
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14:19:37 1 Q. And energy consumption?  
 14:19:39 2 A. Well, that's debatable, but in general,  
 14:19:44 3 yes. If the bus is pretty full, you reduce energy.  
 14:19:46 4 If you're on empty buses, it's questionable whether  
 14:19:49 5 you're reducing energy consumption or not.  
 14:19:49 6 Q. And air --  
 14:19:52 7 A. A lot of buses are running empty, too.  
 14:19:55 8 Q. And bus -- bus shelters help reduce air  
 14:19:59 9 pollutants?  
 14:20:01 10 MR. MOBLEY: Objection. Calls for  
 14:20:01 11 speculation. Beyond the scope of his expertise.  
 14:20:03 12 THE WITNESS: I -- I -- I would not  
 14:20:07 13 conclude that that's necessarily true. Buses make a  
 14:20:11 14 lot more particulates, diesel buses, than cars do.  
 14:20:16 15 And so you're not necessarily saving air pollution  
 14:20:20 16 if the bus isn't pretty full.  
 14:20:20 17 BY MS. BRILL:  
 14:20:22 18 Q. And bus shelters are usually privately  
 14:20:25 19 constructed and financed, correct?  
 14:20:28 20 MR. MOBLEY: Objection. Calls for  
 14:20:34 21 speculation.  
 14:20:34 22 THE WITNESS: I believe that is correct.  
 14:20:34 23 BY MS. BRILL:  
 14:20:35 24 Q. And publicly-owned bus companies seldom  
 14:20:39 25 take enough money into the fare box to cover costs,

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14:20:39 1 correct?  
 14:20:42 2 MR. MOBLEY: Objection. Calls for  
 14:20:43 3 speculation. Beyond his field of expertise.  
 14:20:44 4 THE WITNESS: That's -- that is correct.  
 14:20:46 5 Very few bus companies make money.  
 14:20:46 6 BY MS. BRILL:  
 14:20:50 7 Q. And that's certainly true in Los Angeles,  
 14:20:51 8 correct?  
 14:20:52 9 MR. MOBLEY: Same objections.  
 14:20:52 10 THE WITNESS: Maybe Santa Monica bus may  
 14:20:55 11 make money. They used to make money. Actually,  
 14:20:57 12 Santa Monica bus lines. MTA does not.  
 14:20:57 13 BY MS. BRILL:  
 14:21:02 14 Q. And are you aware that the L.A. MTA runs  
 14:21:05 15 buses with compressed natural -- natural gas?  
 14:21:08 16 MR. MOBLEY: Objection. Calls for  
 14:21:10 17 speculation. Lack of foundation. Beyond his field  
 14:21:12 18 of expertise.  
 14:21:13 19 THE WITNESS: Well, they -- they do now.  
 14:21:16 20 They -- there's -- there's a transition, they're  
 14:21:20 21 transitioning over. I don't know if there's any  
 14:21:22 22 diesels left or not, but I suspect there are.  
 14:21:22 23 BY MS. BRILL:  
 14:21:37 24 Q. You referred to the field of engineering as  
 14:21:38 25 a science, correct?

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14:21:41 1 A. Yes. It's the art of applying scientific  
 14:21:44 2 principles to solving, I'll call it an everyday  
 14:21:59 3 problem, everyday ordinary problem. So it's the art  
 14:21:59 4 of applying a scientific principle.  
 14:21:59 5 Q. Is a basic principle of engineering that,  
 14:21:59 6 in order to draw conclusions, you have to have  
 14:21:59 7 adequate data?  
 14:21:59 8 A. No. That's -- that's false. I mean, if  
 14:22:03 9 there's printed text, you know, if there's printed  
 14:22:05 10 material that you know has been relied upon by a lot  
 14:22:10 11 of people for, I think that's adequate. I don't  
 14:22:13 12 have to have the data or collect the data. So I  
 14:22:16 13 wouldn't have to do that.  
 14:22:17 14 And back to the 15-degree cone, I'm not  
 14:22:20 15 sure there ever was any data collected. I think  
 14:22:22 16 it's just custom and practice.  
 14:22:38 17 Q. In -- in traffic engineering, you used the  
 14:22:40 18 concept of the 15-degree cone looking at something  
 14:22:43 19 at precisely the point when it would disappear from  
 14:22:46 20 the cone, correct?  
 14:22:46 21 A. Yes.  
 14:22:47 22 Q. Is that -- is that practice used in traffic  
 14:22:49 23 engineering?  
 14:22:51 24 A. I would say yes. Now, this is -- this --  
 14:22:54 25 you know, dealing with media signs, whatever you

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14:22:58 1 want to call these, is -- is not something that's  
 14:23:03 2 routinely dealt with and analyzed in the traffic  
 14:23:06 3 engineering circles. So that part of the -- that  
 14:23:09 4 part is -- is -- it would -- we're breaking new  
 14:23:14 5 territory here. But the fact that a 15-degree cone  
 14:23:17 6 is used in the concept of signs has definitely been  
 14:23:22 7 around for many decades.  
 14:23:23 8 Q. I'm talking about your choice of using this  
 14:23:26 9 edge of the cone in the point at which something  
 14:23:29 10 disappears from the cone.  
 14:23:29 11 How is that used in ordinary traffic  
 14:23:32 12 engineering?  
 14:23:33 13 A. Well, like I said before, that's -- that's  
 14:23:36 14 the point they assume the driver's eye sees, and  
 14:23:40 15 they want the sign legible in the 15-degree cone.  
 14:23:44 16 Q. But not just -- I'm asking -- your -- your  
 14:23:46 17 study looked at the point at which -- relative sizes  
 14:23:50 18 at the point where something disappears from the  
 14:23:53 19 edge of the cone, correct?  
 14:23:53 20 A. Yes.  
 14:23:54 21 Q. So where is that used in traffic  
 14:23:56 22 engineering, other than in your report?  
 14:23:59 23 A. I -- I would say this is a relatively new  
 14:24:04 24 or unique approach. This is -- this is breaking  
 14:24:07 25 some new ground. I'm not aware of anybody else

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14:24:10 1 that's done these kind of studies. I pretty well	14:31:24 1 other sign would be in the cone and clearly would be
14:24:13 2 stated my assumptions. I made these assumptions and	14:31:26 2 the biggest sign.
14:24:16 3 this is -- here is my basis, here is my assumptions,	14:31:28 3 Q. And how -- when you're looking, using this
14:24:19 4 here's my hypothetical, here's my -- my results and	14:31:31 4 15-degree cone principle in traffic safety, the
14:24:22 5 answer. I think I've been pretty clear on that.	14:31:36 5 point is to determine -- to make the fonts or the
14:24:25 6 MS. BRILL: Let's take a little break and	14:31:41 6 letters big enough so that they're visible at some
14:24:27 7 maybe we'll be done soon.	14:31:44 7 point within the cone, not at the edge, correct?
14:24:29 8 THE VIDEOGRAPHER: Let's go off the record.	14:31:46 8 A. Well, at the edge. That's where
14:24:30 9 The time is 2:24.	14:31:48 9 theoretically it would -- which -- it should be
14:29:42 10 (Brief recess.)	14:31:51 10 equal. In other words, you should just be able to
14:29:42 11 THE VIDEOGRAPHER: Back on the record. The	14:31:53 11 read the sign when you're at the 15-degree cone.
14:29:45 12 time is 2:29.	14:31:55 12 If you're driving down the freeway, maybe
14:29:45 13 BY MS. BRILL:	14:31:58 13 the easier example, but if you're driving down the
14:29:49 14 Q. Mr. Kunzman, we'll try to finish up	14:32:01 14 freeway, you see a big green sign, it's going to
14:29:53 15 quickly.	14:32:03 15 tell you all the future exits.
14:29:53 16 I'd like you to look at Exhibit 18, which	14:32:05 16 Well, clearly when you first see that sign,
14:29:55 17 is one of those photographs we were looking at	14:32:07 17 normally you're not going to be able to read it.
14:29:57 18 before.	14:32:09 18 You know the sign's there, but you can't read it.
14:29:58 19 Do you see that?	14:32:11 19 The goal is to make it so that in that
14:29:58 20 A. Yes.	14:32:14 20 case, when you're in the fast lane, or a car pool
14:29:59 21 Q. Okay. In your -- in the way you used the	14:32:18 21 lane, and you get to about the 15-degree cone, that
14:30:01 22 15-foot cone, it's correct, is it not, that the bus	14:32:20 22 sign should be readable by a typical driver.
14:30:05 23 shelter sign would fall out of the cone of the	14:32:25 23 And then you get into what's typical, and I
14:30:11 24 15- -- I'm sorry, did I say "15-foot"? The	14:32:28 24 don't know if it's 20/20 or 20/40, but the point is,
14:30:14 25 15-degree cone.	14:32:32 25 is there's some point there when the -- the person
150	152
14:30:14 1 The bus shelter sign would fall out of the	14:32:34 1 should be able to read the sign and know what it
14:30:16 2 15 degrees before that little square or rectangle	14:32:37 2 says without going like that as they drive by it.
14:30:21 3 that shows where the bus -- the bus routes, the	14:32:40 3 They don't have to follow it with their head as they
14:30:24 4 numbers of the bus routes?	14:32:43 4 drive by.
14:30:25 5 Is that correct?	14:32:43 5 So that's -- that's how it's used.
14:30:25 6 A. That is correct, yes.	14:32:46 6 Q. So it can be anywhere -- it can be -- the
14:30:26 7 Q. So at that point, the bus route number sign	14:32:51 7 point is to make it legible within that cone, not
14:30:28 8 would be larger than the -- the bus shelter ad in	14:32:54 8 just at the edge of the cone, correct?
14:30:33 9 the cone?	14:32:56 9 A. Well, yes, but -- but maybe not quite
14:30:34 10 A. Well, if you discounted the -- the ad, the	14:32:58 10 exactly as you stated.
14:30:39 11 bus shelter ad, if you discounted that, then clearly	14:32:59 11 When you get to the point that the sign is
14:30:42 12 the biggest sign would be the -- the bus schedule	14:33:01 12 about to the 15-degree cone line, the edge of the
14:30:45 13 sign.	14:33:03 13 cone, that's the point in time which it should be
14:30:45 14 Q. Okay. And that's how you did your analysis	14:33:07 14 legible to a, call it average driver. Before that
14:30:48 15 for --	14:33:11 15 point when the sign is more in the center, assuming
14:30:50 16 A. Well, I basically said when you were at	14:33:13 16 it's a straight road, when the sign is more in the
14:30:53 17 15-degrees cone, which sign would appear to be	14:33:15 17 center, you know, is well inside that cone. Not
14:30:55 18 bigger when both of them were at the 15-degree	14:33:19 18 necessarily legible. It's not necessarily --
14:30:58 19 boundary? That's how I did it.	14:33:22 19 necessarily legible.
14:31:00 20 Q. And so -- so there's a point at which, even	14:33:24 20 But when you get to the point where the
14:31:05 21 for this small pole sign with the bus routes, that	14:33:26 21 sign is about 15-degree cone, you should be able to
14:31:12 22 would be bigger than the bus shelter sign on your --	14:33:29 22 pretty easily read it, or an average person, typical
14:31:17 23 the way you did the analysis?	14:33:33 23 person.
14:31:19 24 A. Yes. It's definitions, but yes, there's a	14:33:33 24 Q. And that, you're talking typically about
14:31:23 25 point where the one sign wouldn't count and the	14:33:35 25 signs that are placed in the -- placed in the center
151	153



14:33:37 1 of a freeway, for example?  
 14:33:42 2 A. Well, my example was like if it's -- it's  
 14:33:44 3 off to the edge. Let's say it's an off-ramp. Not  
 14:33:48 4 too many signs are in the middle of the freeway.  
 14:33:50 5 Some are, but -- but -- and some are overhead signs.  
 14:33:52 6 But typically a directional sign saying,  
 14:33:56 7 you know, Robertson Avenue is coming up, that kind  
 14:33:59 8 of sign is typically on the right-hand side up on a  
 14:34:02 9 pole. And the pole hangs cantilevered out to some  
 14:34:07 10 degree over the travel lanes, but not -- not way  
 14:34:08 11 out. Just over a little bit. Typically it's maybe  
 14:34:12 12 over the slow lane. That's about it.  
 14:34:23 13 MS. BRILL: Okay. Well, do you have  
 14:34:24 14 anything else? No? -----  
 14:34:26 15 Okay. Well, thank you for -- for coming in  
 14:34:29 16 today. And I appreciate your time.  
 14:34:32 17 THE VIDEOGRAPHER: Well, this concludes the  
 14:34:35 18 deposition of William Kunzman, Volume Number I. The  
 14:34:38 19 number of tapes used was two. And the original  
 14:34:47 20 videotapes will be retained by Merrill Legal  
 14:34:47 21 Solutions at 20750 Ventura Boulevard, Suite 205,  
 14:34:50 22 Woodland Hills, California. Going off of the  
 14:34:52 23 record. The time is 2:35.  
 24 (Deposition concluded at 2:35 p.m.)  
 25 -oOo-

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1 STATE OF CALIFORNIA )  
 ) ss.  
 2 COUNTY OF LOS ANGELES )  
 3  
 4 I, Shanda Levine, Certified Shorthand  
 5 Reporter, Certificate No. 10094, for the State of  
 6 California, hereby certify:  
 7 I am the deposition officer that  
 8 stenographically recorded the testimony in the  
 9 foregoing deposition;  
 10 Prior to being examined the witness was by  
 11 me first duly sworn;  
 12 The foregoing transcript is a true record  
 13 of the testimony given.  
 14 Before completion of the deposition, review  
 15 of the transcript [X] was [] was not requested. If  
 16 requested, any changes made by the deponent (and  
 17 provided to the reporter) during the period allowed  
 18 are appended hereto.  
 19  
 20 Dated \_\_\_\_\_  
 21  
 22 \_\_\_\_\_  
 23 Shanda Levine  
 24 CSR 10094  
 25

156

1 DECLARATION  
 2  
 3  
 4  
 5  
 6 I hereby declare I am the deponent in the  
 7 within matter; that I have read the foregoing  
 8 deposition and know the contents thereof, and I  
 9 declare that the same is true of my knowledge except  
 10 as to the matters which are therein stated upon my  
 11 information or belief, and as to those matters, I  
 12 believe it to be true.  
 13 I declare under the penalties of perjury of  
 14 the State of California that the foregoing is true  
 15 and correct.  
 16 Executed on the \_\_\_\_\_ day of  
 17 \_\_\_\_\_ 2008, at  
 18 \_\_\_\_\_  
 19 California.  
 20  
 21  
 22  
 23  
 24  
 25 WITNESS

155

1 STATE OF CALIFORNIA       )  
  ) ss.  
2 COUNTY OF LOS ANGELES    )

3

4           I, Shanda Levine, Certified Shorthand Reporter,  
5 Certificate No. 10094, for the State of California,  
6 hereby certify:

7           I am the deposition officer that  
8 stenographically recorded the testimony in the foregoing  
9 deposition;

10           Prior to being examined the witness was by me  
11 first duly sworn;

12           The foregoing transcript is a true record of  
13 the testimony given.

14           Before completion of the deposition, review of  
15 the transcript [☒] was [ ] was not requested. If  
16 requested, any changes made by the deponent (and  
17 provided to the reporter) during the period allowed are  
18 appended hereto.

19

20 Dated July 23, 2008.

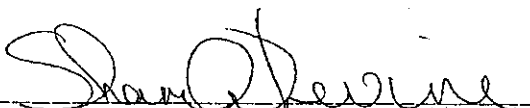
21

22

23

24

25

  
\_\_\_\_\_  
Shanda Levine  
CSR 10094

# Exhibit 14

1 PAUL E. FISHER SBN 125309  
The Law Office of Paul E. Fisher  
2 537 Newport Center Dr., #289  
Newport Beach CA 92660  
3 Telephone: (949) 675-5619  
Facsimile: (949) 675-5641

4 ATTORNEYS FOR PLAINTIFF  
5 METRO LIGHTS OUTDOOR MEDIA, INC.

6 UNITED STATES DISTRICT COURT  
7 FOR THE CENTRAL DISTRICT OF CALIFORNIA

8 METRO LIGHTS, L.L.C., a New York  
corporation,

9 Plaintiff,

10 vs.

11 CITY OF LOS ANGELES, a California  
municipal corporation; and DOE 1  
12 through DOE 10, inclusive,

13 Defendants.

Case No. CV 04-1037 GAF (Ex)

The Hon. Gary A. Feess

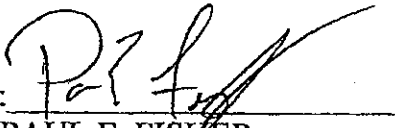
**DECLARATION OF WILLIAM  
KUNZMAN SUBMITTED IN  
SUPPORT OF MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Date: September 26, 2005  
Time: 9:30 a.m.  
Courtroom: 740

16 Plaintiffs hereby submit the declaration of William Kunzman in  
17 support of its Motion for Partial Summary Judgment. This declaration was  
18 previously filed in support of Plaintiff's Motion for Preliminary Injunction.

19 Date: August 25, 2005

LAW OFFICE OF PAUL E. FISHER

21 By:   
22 PAUL E. FISHER  
23 Attorneys for Plaintiff  
24 METRO LIGHTS, L.L.C.

27 EXHIBIT

Kunzman  
7-22-08

-1- DECLARATION OF WILLIAM KUNZMAN  
IN SUPPORT OF MOTION FOR SUMMARY

Brill Document Ex. B



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5 ATTORNEYS FOR PLAINTIFF  
METRO LIGHTS OUTDOOR MEDIA, INC.

6  
7 UNITED STATES DISTRICT COURT  
8 FOR THE CENTRAL DISTRICT OF CALIFORNIA

9 METRO LIGHTS, L.L.C., a New York  
10 corporation,

11 Plaintiff,  
12 vs.

13 CITY OF LOS ANGELES, a California  
municipal corporation; and DOE 1  
14 through DOE 10, inclusive,

15 Defendants.  
16  
17

Case No. CV 04-1037 GAF (Ex)

**DECLARATION OF WILLIAM  
KUNZMAN IN SUPPORT OF  
MOTION FOR PRELIMINARY  
INJUNCTION**

The Hon. Gary A. Feess

Date: August 30, 2004  
Time: 10:00 a.m.  
Dept. 740

18 I, William Kunzman, declare as follows:

19 1. I am over the age of 18 and not a party to the within action. I  
20 have personal knowledge of each of the following facts and if called as a  
21 witness, I could and would testify competently thereto.

22 2. I am a registered professional traffic safety engineer in the State  
23 of California, license no. TE0056. A true and correct copy of my curriculum  
24 vitae is attached hereto as Exhibit "A."

25 3. I have a Bachelor of Science degree in engineering from the  
26 University of California at Los Angeles and a certificate in traffic  
27 engineering from Yale University.  
28

DECLARATION OF  
William Kunzman Ex. B  
-56-

1           4. On or about July 19, 2004, I was retained by Plaintiff, Metro  
2 Lights, L.L.C. ("Metro Lights") to conduct an inspection of signs to  
3 determine whether they may constitute a traffic hazard. On or about July 31,  
4 2004, I conducted an inspection of seven separate locations where Metro  
5 Lights has signs located within the City of Los Angeles. At each location, I  
6 found a sign physically identical, measuring approximately 67" in height and  
7 46" in width, the exact dimensions of bus shelter signs that the City of Los  
8 Angeles currently maintains in numerous locations. Attached hereto as  
9 Exhibit "B" is a table that I prepared comparing the physical aspects of the  
10 signs maintained by Metro Lights with those located at City bus shelters.

11           5. In order to determine the relative effect on traffic safety of the  
12 Metro Lights sign and the adjacent bus shelter sign, I measured the distance  
13 of each sign from the curbside and adjacent lanes of traffic. On average, the  
14 signs operated by Metro Lights, which are referred to in my report as  
15 "outdoor media signs" are more than 3 times further from the curb face than  
16 the bus shelter signs. The outdoor media signs which are the subject of my  
17 study are an average of 19.3 feet away from the curb face, while the average  
18 bus shelter sign was only 5.3 feet from the curb face.

19           6. I determined that all of the bus shelter signs in my sample were  
20 closer to the curb face than all of the outdoor media signs owned by Metro  
21 Lights. All of the bus shelter signs were located on City owned right-of-way  
22 while the outdoor media signs owned by Metro Lights were outside the City  
23 owned right-of-way and located on what was apparently private property.  
24 Accordingly, the outdoor media signs will always be further away from the  
25 curb face than the bus shelter signs for a given right-of-way width.

26           7. Attached hereto as Exhibit "C" is a table in which I describe  
27 figures relevant to determining the degree to which the Metro Lights signs  
28

1 compare as a potential traffic hazard to the bus shelter signs maintained by  
2 the City. As described in Exhibit "C," the bus shelter signs are more visible  
3 to a driver than the outdoor media signs maintained by Metro Lights, based  
4 on the angle off straight ahead that a driver has to look to see the sign. Bus  
5 shelter signs are more visible and logically more distracting for the same  
6 size sign with the same message. Visibility is a function of the angle to the  
7 right of straight ahead that a driver has to look to see a sign.

8       8. For the average bus shelter sign, it is within 15° of a driver's  
9 straight ahead line of sight at 80 or more feet back from the sign. For the  
10 average outdoor media sign, it is within 15° of a driver's straight ahead line  
11 of sight at 140 or more feet back from the sign. Outdoor media signs will  
12 always be further from the curb face and have a larger angle off straight  
13 ahead than a bus shelter sign for a given right-of-way width outside of the  
14 curb face. Therefore, the bus shelter signs in my study were more visible  
15 and more of a potential distraction than any of the outdoor media signs  
16 included in my study.

17  
18       9. In Exhibit "C" (Table 2), I chose 15° as a reasonable angle to  
19 represent the angle that one would expect a driver to notice a sign. Clearly,  
20 a driver is more likely to see a sign if it is less than 15° from his straight  
21 ahead line of sight and less likely to see a sign if it is more than 15° of his  
22 line of sight. Whether 15° or some other angle is used, similar results will  
23 be obtained. Because the bus shelter signs are closer to lanes of traffic, and  
24 the Metro Lights signs are further away from lanes of traffic, the bus shelter  
25 signs will almost invariably be within the driver's sight to a greater degree.

26       10. Attached hereto collectively as Exhibit "D" are a series of  
27 photographs that I took of each of the sites I inspected. Each of these sites  
28 represent a bus shelter sign or outdoor media sign operated by Metro Lights

1 located in the City of Los Angeles. In each instance, I have placed a red dot  
2 in the photograph to indicate the location of the sign.

3 11. The photographs depict the following:

4 Photo #1a - This shows a Metro Lights sign located at the  
5 corner of Sunset and Hayworth. The Metro Lights sign can be  
6 seen on the right hand side of the photograph.

7 Photo #1b - This photo is of the same site as that depicted in  
8 photo #1a, but the red dot is now placed by the bus shelter sign,  
9 which can be seen to be far closer to the lanes of traffic and  
10 more visible to motorists.

11 Photo #2a - This photo depicts a Metro Lights sign located at  
12 the intersection of Olympic and La Brea.

13 Photo #2b - This photo indicates a bus shelter sign in the same  
14 location as the sign depicted in photo #2a.

15 Photo #3a - This photo shows a Metro Lights sign located at La  
16 Brea and Third.

17 Photo #3b - This photo depicts a similar bus shelter sign at the  
18 same location. Photo #3a and photo #3b are highly instructive  
19 in determining the relative traffic safety of each of the two  
20 types of signs. Depicted in photos #3a and #3b are signs of the  
21 identical dimensions and depicting the exact same advertising  
22 copy, an advertisement for the film, "The Black Book." The  
23 most significant difference between the two types of signs is  
24 that the City's sign depicted in photograph #3b is only 3.8'  
25 from the curb face, while Metro Lights' sign is 16.7' away from  
26 the curb face. A driver looking straight ahead would have the  
27 City sign within his line of sight using the 15° angle described  
28



1 in Exhibit "C" for a much longer time than the corresponding  
 2 Metro Lights sign. Accordingly, the photos #3a and #3b easily  
 3 demonstrate the greater visibility of the City's bus shelter signs  
 4 over the Metro Lights signs.

5 Photo #4a - This photo depicts a Metro Lights sign at the  
 6 intersection of Highland and Sunset.

7 Photo #4b - This photo shows a bus shelter sign at almost the  
 8 same location.

9 Photo #5a - This photo indicates another Metro Lights sign  
 10 located near Highland and Sunset, visible to westbound traffic.

11 Photo #5b - The closest bus shelter sign to the Metro Lights  
 12 sign depicted in Exhibit 5a can be seen in Exhibit 4b.

13 Photo #6a - This photo shows a Metro Lights sign located near  
 14 the corner of Rossmore and Melrose.

15 Photo #6b - This photo indicates a bus shelter sign situated in  
 16 close proximity to Photo #6a.

17 Photo #7a - This photo depicts another Metro Lights sign  
 18 located at the intersection of Rossmore and Melrose.

19 Photo #7b - The closest bus shelter sign closest to the Metro  
 20 Lights sign depicted in Photo 7a can be seen in Photo 6b.

21  
 22 12. In all of the photographs described above, the bus shelter sign is  
 23 consistently closer to lanes of traffic than the outdoor media signs and  
 24 commensurately more visible to drivers. The signs located closer to the  
 25 driver's straight ahead line of sight are visible for a greater length of time  
 26 than signs located at a greater angle from the driver's straight line of sight.


27 13. Attached hereto as Exhibit "E" are a series of photographs that I  
 28 took of a bus shelter sign located on the east side of Figueroa between

1 Wilshire and Sixth. What is significant about this sign, is that it is not in fact  
2 connected to the adjacent bus shelter, which is also visible in the  
3 photograph. Instead, it is a two-sided freestanding sign located on the  
4 sidewalk. Although it is close to a bus shelter, it is not attached and does not  
5 constitute a part of the bus shelter.

6 14. Based on my review of all of the available data, as described  
7 above, I do not believe that the Metro Lights signs depicted in the attached  
8 photographs and described in Exhibits "B," "C," and "D" create any unsafe  
9 condition for the traveling public. In fact, based on my review of the signs  
10 depicted in the photographs attached to this declaration, signs erected by the  
11 City in connection with bus shelters are invariably closer to lanes of traffic  
12 and, therefore, more visible and potentially a greater distraction than any of  
13 the signs owned and operated by Metro Lights.

14 I declare under penalty of perjury under the laws of the United States  
15 of America that the foregoing is true and correct.

16 Executed this 6th day of August, 2004, at Los Angeles, California.

17  
18  
19  
20  
21   
22 WILLIAM KUNZMAN  
23  
24  
25  
26  
27  
28